

E2SSB 6267 - H COMM AMD

By Committee on Agriculture & Natural Resources

Strike everything after the enacting clause and insert the following:

NEW SECTION. **Sec. 1.** Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

NEW __ SECTION. **Sec. 2.** Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

Sec. 3. RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

(1)(a) Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department(~~((τ))~~) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may (~~((only))~~) be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other applications from the same source of supply which must be acted upon before the applicant's request because they were filed prior to the date of when the applicant filed.

1 **(b) The requirement to pay for the cost of other applications under**
2 **(a) of this subsection does not apply to an application for a new**
3 **appropriation that would not diminish the water available to earlier**
4 **pending applicants for new appropriations from the same source of**
5 **supply.**

6 **(c) The requirement to pay for the cost of processing other**
7 **applications under (a) of this subsection does not apply to an**
8 **application for a change, transfer, or other amendment that would not**
9 **diminish the water available to earlier pending applicants for changes**
10 **or transfers from the same source of supply.**

11 **(d) In determining whether an application would not diminish the**
12 **water available to earlier pending applicants, the department shall**
13 **consider any water impoundment or other water resource management**
14 **mitigation technique proposed by the applicant under RCW 90.03.255 or**
15 **90.44.055.**

16 **(e) The department may enter into cost-reimbursement agreements**
17 **provided resources are available and shall use the process established**
18 **under RCW 43.21A.690 for entering into cost-reimbursement agreements.**
19 **The department's share of work related to a cost-reimbursement**
20 **application, such as final certificate approval, must be prioritized**
21 **within the framework of other water right processing needs and as**
22 **determined by agency rule.**

23 **(f) Each individual applicant is responsible for his or her own**
24 **appeal costs that may result from a water right decision made by the**
25 **department. In the event that the department's approval of an**
26 **application is appealed under chapter 43.21B RCW by a third party, the**
27 **applicant for the water right in question must reimburse the department**
28 **for the cost of defending the decision before the pollution control**
29 **hearings board unless otherwise agreed to by the applicant and the**
30 **department. If an applicant appeals either an approval or a denial by**
31 **the department, the applicant is responsible only for its own appeal**
32 **costs.**

33 **(2) In pursuing a cost-reimbursement project, the department must**
34 **determine the source of water proposed to be diverted or withdrawn**
35 **from, including the boundaries of the area that delimits the source.**
36 **The department must determine if any other water right permit**
37 **applications are pending from the same source. A water source may**
38 **include surface water only, groundwater only, or surface and**

1 groundwater together if the department finds they are hydraulically
2 connected. The department shall consider technical information
3 submitted by the applicant in making its determinations under this
4 subsection. The department may recover from a cost-reimbursement
5 applicant its own costs in making the same source determination under
6 this subsection.

7 (3) Upon request of the applicant seeking cost-reimbursement
8 processing, the department may elect to initiate a coordinated cost-
9 reimbursement process. To initiate this process, the department must
10 notify in writing all persons who have pending applications on file for
11 a new appropriation, change, transfer, or amendment of a water right
12 from that water source. A water source may include surface water only,
13 groundwater only, or surface and groundwater together if the department
14 determines that they are hydraulically connected. The notice must be
15 posted on the department's web site and published in a newspaper of
16 general circulation in the area where affected properties are located.
17 The notice must also be made individually by way of mail to:

18 (a) Inform those applicants that cost-reimbursement processing of
19 applications within the described water source is being initiated;

20 (b) Provide to individual applicants the criteria under which the
21 applications will be examined and determined;

22 (c) Provide to individual applicants the estimated cost for having
23 an application processed on a cost-reimbursement basis;

24 (d) Provide an estimate of how long the cost-reimbursement process
25 will take before an application is approved or denied; and

26 (e) Provide at least sixty days for the applicants to respond in
27 writing regarding the applicant's decision to participate in the cost-
28 reimbursement process.

29 (4) The applicant initiating the cost-reimbursement request must
30 pay for the cost of the determination under subsections (2) and (3) of
31 this section and other costs necessary for the initial phase of cost-
32 reimbursement processing. The cost for each applicant for conducting
33 processing under a coordinated cost-reimbursement agreement must be
34 based primarily on the proportionate quantity of water requested by
35 each applicant. The cost may be adjusted if it appears that an
36 application will require a disproportionately greater amount of time
37 and effort to process due to its complexity.

1 (5)(a) Only the department may approve or deny a water right
2 application processed under this section, and such a final decision
3 remains solely the responsibility and function of the department. The
4 department retains full authority to amend, refuse, or approve any work
5 product provided by any consultant under this section. The department
6 may recover its costs related to: (i) The review of a contractor to
7 ensure that no conflict of interest exists; (ii) the management of
8 consultant contracts and cost-reimbursement agreements; and (iii) the
9 review of work products provided by participating consultants.

10 (b) For any cost-reimbursement process initiated under subsection
11 (1) of this section, the applicant may, after consulting with the
12 department, select a prequalified consultant listed by the department
13 under subsection (7) of this section or may be assigned such a
14 prequalified consultant by the department.

15 (c) For any coordinated cost-reimbursement process initiated under
16 subsection (2) of this section, the applicant may, after consulting
17 with the department, select a prequalified consultant listed by the
18 department under subsection (7) of this section or may be assigned a
19 prequalified consultant by the department.

20 (d) In lieu of having one or more of the work products performed by
21 a prequalified consultant listed under subsection (7) of this section,
22 the department may, at its discretion, recognize specific work
23 completed by an applicant or an applicant's consultant prior to the
24 initiation of cost-reimbursement processing. The department may also,
25 at its discretion, authorize the use of such a consultant to perform a
26 specific scope of the work performed by prequalified consultants listed
27 under subsection (7) of this section.

28 (e) At any point during the cost-reimbursement process, the
29 department may request or accept technical information, data, and
30 analysis from the applicant or the applicant's consultant to support
31 the cost-reimbursement process or the department's decision on the
32 application.

33 (6) The department is authorized to adopt rules or guidance
34 providing minimum qualifications and standards for any consultant's
35 submission of work products under this section, including standards for
36 submission of technical information, scientific analysis, work product
37 documentation, and report presentation that such a consultant must
38 meet.

1 (7) The department must provide notice to potential consultants of
2 the opportunity to be considered for inclusion on the list of cost-
3 reimbursement consultants to whom work assignments will be made. The
4 department must competitively select an appropriate number of
5 consultants who are qualified by training and experience to investigate
6 and make recommendations on the disposition of water right
7 applications. The prequalified consultant list must be renewed at
8 least every six years, though the department may add qualified cost-
9 reimbursement consultants to the list at any time. The department must
10 enter a master contract with each consultant selected and thereafter
11 make work assignments based on availability and qualifications.

12 (8) The department may remove any consultant from the consultant
13 list for poor performance, malfeasance, or excessive complaints from
14 cost-reimbursement participants. The department may interview any
15 cost-reimbursement consultant to determine whether the person is
16 qualified for this work, and must spot-check the work of consultants to
17 ensure that the public is being competently served.

18 (9) When a prequalified cost-reimbursement consultant from the
19 department's list described in subsection (7) of this section is
20 assigned or selected to investigate an application or set of
21 applications, the consultant must document its findings and recommended
22 disposition in the form of written draft technical reports and
23 preliminary draft reports of examination. Within two weeks of the
24 department receiving draft technical reports and preliminary draft
25 reports of examination, the department shall provide the applicant such
26 documents for review and comment prior to their completion by the
27 consultant. The department shall consider such comments by the
28 applicant prior to the department's issuance of a draft report of
29 examination. The department may modify the preliminary draft reports
30 of examination submitted by the consultant. The department's decision
31 on a permit application is final unless it is appealed to the pollution
32 control hearings board under chapter 43.21B RCW.

33 (10) If an applicant elects not to participate in a cost-
34 reimbursement process, the application remains on file with the
35 department, retains its priority date, and may be processed in the
36 future under regular processing, expedited processing, coordinated
37 cost-reimbursement processing, cost-reimbursement processing, or

1 through conservancy board processing as authorized under chapter 90.80
2 RCW.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.03 RCW
4 to read as follows:

5 The water rights processing account is created in the state
6 treasury. All receipts from the fees collected under sections 5, 7,
7 and 12 of this act must be deposited into the account. Money in the
8 account may be spent only after appropriation. Expenditures from the
9 account may only be used to support the processing of water right
10 applications for a new appropriation, change, transfer, or amendment of
11 a water right as provided in this chapter and chapters 90.42 and 90.44
12 RCW or for the examination, certification, and renewal of certification
13 of water right examiners as provided in section 7 of this act.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.03 RCW
15 to read as follows:

16 (1) The department may expedite processing of applications within
17 the same source of water on its own volition when there is interest
18 from a sufficient number of applicants or upon receipt of written
19 requests from at least ten percent of the applicants within the same
20 source of water.

21 (2) If the conditions of subsection (1) of this section have been
22 met and the department determines that the public interest is best
23 served by expediting applications within a water source, the department
24 must notify in writing all persons who have pending applications on
25 file for a new appropriation, change, transfer, or amendment of a water
26 right from that water source. A water source may include surface water
27 only, groundwater only, or surface and groundwater together if the
28 department determines that they are hydraulically connected. The
29 notice must be posted on the department's web site and published in a
30 newspaper of general circulation in the area where affected properties
31 are located. The notice must also be made individually by way of mail
32 to:

33 (a) Inform those applicants that expedited processing of
34 applications within the described water source is being initiated;

35 (b) Provide to individual applicants the criteria under which the
36 applications will be examined and determined;

1 (c) Provide to individual applicants the estimated cost for having
2 an application processed on an expedited basis;

3 (d) Provide an estimate of how long the expedited process will take
4 before an application is approved or denied; and

5 (e) Provide at least sixty days for the applicants to respond in
6 writing regarding the applicant's decision to participate in the
7 expedited processing of their applications.

8 (3) In addition to the application fees provided in RCW 90.03.470,
9 the department must recover the full cost of processing all the
10 applications from applicants who elect to participate within the water
11 source through expedited processing fees. The department must
12 calculate an expedited processing fee based primarily on the
13 proportionate quantity of water requested by each applicant and may
14 adjust the fee if it appears that the application will require a
15 disproportionately greater amount of time and effort to process due to
16 its complexity. Any application fees that were paid by the applicant
17 under RCW 90.03.470 must be credited against the applicant's share of
18 the cost of processing applications under the provisions of this
19 section.

20 (4) The expedited processing fee must be collected by the
21 department prior to the expedited processing of an application.
22 Revenue collected from these fees must be deposited into the water
23 rights processing account created in section 4 of this act. An
24 applicant who has stated in writing that he or she wants his or her
25 application processed using the expedited procedures in this section
26 must transmit the processing fee within sixty days of the written
27 request. Failure to do so will result in the applicant not being
28 included in expedited processing for that water source.

29 (5) If an applicant elects not to participate in expedited
30 processing, the application remains on file with the department, the
31 applicant retains his or her priority date, and the application may be
32 processed through regular processing, expedited processing, coordinated
33 cost-reimbursement processing, cost-reimbursement processing, or
34 through conservancy board processing as authorized under chapter 90.80
35 RCW. Such an application may not be processed through expedited
36 processing within twelve months after the department's issuance of
37 decisions on participating applications at the conclusion of expedited
38 processing unless the applicant agrees to pay the full proportionate

1 share that would otherwise have been paid during such processing. Any
2 proceeds collected from an applicant under this delayed entry into
3 expedited processing shall be used to reimburse the other applicants
4 who participated in the previous expedited processing of applications,
5 provided sufficient proceeds remain to fully cover the department's
6 cost of processing the delayed entry application and the department's
7 estimated administrative costs to reimburse the previously expedited
8 applicants.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.03 RCW
10 to read as follows:

11 The department must post notice on its web site and provide
12 electronic notice and opportunity for comment to affected federally
13 recognized tribal governments concurrently when providing notice to
14 applicants under RCW 90.03.265 and sections 5 and 12 of this act.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.03 RCW
16 to read as follows:

17 (1) The department shall establish and maintain a list of certified
18 water right examiners. Certified water right examiners on the list are
19 eligible to perform final proof examinations of permitted water uses
20 leading to the issuance of a water right certificate under RCW
21 90.03.330. The list must be updated annually and must be made
22 available to the public through written and electronic media.

23 (2) In order to qualify, an individual must be registered in
24 Washington as a professional engineer, professional land surveyor, or
25 registered hydrogeologist, or an individual must demonstrate at least
26 five years of applicable experience to the department, or be a board
27 member of a water conservancy board. Qualified individuals must also
28 pass a written examination prior to being certified by the department.
29 Such an examination must be administered by either the department or an
30 entity formally approved by the department. Each certified water right
31 examiner must demonstrate knowledge and competency regarding:

- 32 (a) Water law in the state of Washington;
33 (b) Measurement of the flow of water through open channels and
34 enclosed pipes;
35 (c) Water use and water level reporting;
36 (d) Estimation of the capacity of reservoirs and ponds;

1 (e) Irrigation crop water requirements;
2 (f) Aerial photo interpretation;
3 (g) Legal descriptions of land parcels;
4 (h) Location of land and water infrastructure through the use of
5 maps and global positioning;
6 (i) Proper construction and sealing of well bores; and
7 (j) Other topics related to the preparation and certification of
8 water rights in Washington state.

9 (3) Except as provided in subsection (9) of this section, upon
10 completion of a water appropriation and putting water to beneficial
11 use, in order to receive a final water right certificate, the permit
12 holder must secure the services of a certified water right examiner who
13 has been tested and certified by the department. The examiner shall
14 carry out a final examination of the project to verify its completion
15 and to determine and document for the permit holder and the department
16 the amount of water that has been appropriated for beneficial use, the
17 location of diversion or withdrawal and conveyance facilities, and the
18 actual place of use. The examiner shall take measurements or make
19 estimates of the maximum diversion or withdrawal, the capacity of water
20 storage facilities, the acreage irrigated, the type and number of
21 residences served, the type and number of stock watered, and other
22 information relevant to making a final determination of the amount of
23 water beneficially used. The examiner shall make photographs of the
24 facilities to document the use or uses of water and the photographs
25 must be submitted with the examiner's report to the department. The
26 department shall specify the format and required content of the reports
27 and may provide a form for that purpose.

28 (4) The department may suspend or revoke a certification based on
29 poor performance, malfeasance, failure to acquire continuing education
30 credits, or excessive complaints from the examiner's customers. The
31 department may require the retesting of an examiner. The department
32 may interview any examiner to determine whether the person is qualified
33 for this work. The department shall spot-check the work of examiners
34 to ensure that the public is being competently served. Any person
35 aggrieved by an order of the department including the granting, denial,
36 revocation, or suspension of a certificate issued by the department
37 under this chapter may appeal pursuant to chapter 43.21B RCW.

1 (5) The decision regarding whether to issue a final water right
2 certificate is solely the responsibility and function of the
3 department.

4 (6) The department shall make its final decision under RCW
5 90.03.330 within sixty days of the date of receipt of the proof of
6 examination from the certified water right examiner, unless otherwise
7 requested by the applicant.

8 (7) Each certified water right examiner must complete eight hours
9 annually of qualifying continuing education in the water resources
10 field. The department shall determine and specify the qualifying
11 continuing education and shall inform examiners of the opportunities.
12 The department shall track whether examiners are current in their
13 continuing education and may suspend the certification of an examiner
14 who has not complied with the continuing education requirement.

15 (8) Each certified water right examiner must be bonded for at least
16 fifty thousand dollars.

17 (9) The department may waive the requirement to secure the services
18 of a certified water right examiner in situations in which the
19 department deems it unnecessary for purposes of issuing a certificate
20 of water right.

21 (10) The department shall establish and collect fees for the
22 examination, certification, and renewal of certification of water right
23 examiners. Revenue collected from these fees must be deposited into
24 the water rights processing account created in section 4 of this act.
25 Pursuant to RCW 43.135.055, the department is authorized to set fees
26 for examination, certification, and renewal of certification for water
27 right examiners.

28 (11) The department may adopt rules appropriate to carry out the
29 purposes of this section.

30 **Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read
31 as follows:

32 (1)(a) Any person or entity, or successor to such person or entity,
33 having a statement of claim on file with the water rights claims
34 registry (~~(on April 20, 1987,)~~) may submit to the department of ecology
35 for filing(~~(7)~~) an amendment to such a statement of claim if the
36 submitted amendment is based on:

1 ~~((1))~~ (i) An error in estimation of the quantity of the
2 applicant's water claim prescribed in RCW 90.14.051 if the applicant
3 provides reasons for the failure to claim such right in the original
4 claim;

5 ~~((2))~~ (ii) A change in circumstances not foreseeable at the time
6 the original claim was filed, if such change in circumstances relates
7 only to the manner of transportation or diversion of the water and not
8 to the use or quantity of such water; or

9 ~~((3))~~ (iii) The amendment is ministerial in nature.

10 (b) The department shall accept any such submission and file the
11 same in the registry unless the department by written determination
12 concludes that the requirements of (a)(i), (ii), or (iii) of this
13 subsection ~~((1), (2), or (3) of this section))~~ have not been
14 satisfied.

15 (2) In addition to subsection (1) of this section, a surface water
16 right claim may be changed or transferred in the same manner as a
17 permit or certificate under RCW 90.03.380, and a water right claim for
18 groundwater may be changed or transferred as provided under RCW
19 90.03.380 and 90.44.100.

20 (3) Any person aggrieved by a determination of the department may
21 obtain a review thereof by filing a petition for review with the
22 pollution control hearings board within thirty days of the date of the
23 determination by the department. The provisions of RCW 90.14.081 shall
24 apply to any amendment filed or approved under this section.

25 **Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read
26 as follows:

27 (1) After an application to, and upon the issuance by the
28 department of an amendment to the appropriate permit or certificate of
29 groundwater right, the holder of a valid right to withdraw public
30 groundwaters may, without losing the holder's priority of right,
31 construct wells or other means of withdrawal at a new location in
32 substitution for or in addition to those at the original location, or
33 the holder may change the manner or the place of use of the water.

34 (2) An amendment to construct replacement or a new additional well
35 or wells at a location outside of the location of the original well or
36 wells or to change the manner or place of use of the water shall be
37 issued only after publication of notice of the application and findings

1 as prescribed in the case of an original application. Such amendment
2 shall be issued by the department only on the conditions that: (a) The
3 additional or replacement well or wells shall tap the same body of
4 public groundwater as the original well or wells; (b) where a
5 replacement well or wells is approved, the use of the original well or
6 wells shall be discontinued and the original well or wells shall be
7 properly decommissioned as required under chapter 18.104 RCW; (c) where
8 an additional well or wells is constructed, the original well or wells
9 may continue to be used, but the combined total withdrawal from the
10 original and additional well or wells shall not enlarge the right
11 conveyed by the original permit or certificate; and (d) other existing
12 rights shall not be impaired. The department may specify an approved
13 manner of construction and shall require a showing of compliance with
14 the terms of the amendment, as provided in RCW 90.44.080 in the case of
15 an original permit.

16 (3) The construction of a replacement or new additional well or
17 wells at the location of the original well or wells shall be allowed
18 without application to the department for an amendment. However, the
19 following apply to such a replacement or new additional well: (a) The
20 well shall tap the same body of public groundwater as the original well
21 or wells; (b) if a replacement well is constructed, the use of the
22 original well or wells shall be discontinued and the original well or
23 wells shall be properly decommissioned as required under chapter 18.104
24 RCW; (c) if a new additional well is constructed, the original well or
25 wells may continue to be used, but the combined total withdrawal from
26 the original and additional well or wells shall not enlarge the right
27 conveyed by the original water use permit or certificate; (d) the
28 construction and use of the well shall not interfere with or impair
29 water rights with an earlier date of priority than the water right or
30 rights for the original well or wells; (e) the replacement or
31 additional well shall be located no closer than the original well to a
32 well it might interfere with; (f) the department may specify an
33 approved manner of construction of the well; and (g) the department
34 shall require a showing of compliance with the conditions of this
35 subsection (3).

36 (4) As used in this section, the "location of the original well or
37 wells" of a water right permit or certificate is the area described as
38 the point of withdrawal in the original public notice published for the

1 application for the water right for the well. The location of the
2 original well or wells of a water right claim filed under chapter 90.14
3 RCW is the area located within a one-quarter mile radius of the current
4 well or wells.

5 (5) The development and use of a small irrigation impoundment, as
6 defined in RCW 90.03.370(8), does not constitute a change or amendment
7 for the purposes of this section. The exemption expressly provided by
8 this subsection shall not be construed as requiring an amendment of any
9 existing water right to enable the holder of the right to store water
10 governed by the right.

11 (6) This section does not apply to a water right involved in an
12 approved local water plan created under RCW 90.92.090 or a banked water
13 right under RCW 90.92.070.

14 **Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read
15 as follows:

16 (1) After an application to, and upon the issuance by the
17 department of an amendment to the appropriate permit or certificate of
18 groundwater right, the holder of a valid right to withdraw public
19 groundwaters may, without losing the holder's priority of right,
20 construct wells or other means of withdrawal at a new location in
21 substitution for or in addition to those at the original location, or
22 the holder may change the manner or the place of use of the water.

23 (2) An amendment to construct replacement or a new additional well
24 or wells at a location outside of the location of the original well or
25 wells or to change the manner or place of use of the water shall be
26 issued only after publication of notice of the application and findings
27 as prescribed in the case of an original application. Such amendment
28 shall be issued by the department only on the conditions that: (a) The
29 additional or replacement well or wells shall tap the same body of
30 public groundwater as the original well or wells; (b) where a
31 replacement well or wells is approved, the use of the original well or
32 wells shall be discontinued and the original well or wells shall be
33 properly decommissioned as required under chapter 18.104 RCW; (c) where
34 an additional well or wells is constructed, the original well or wells
35 may continue to be used, but the combined total withdrawal from the
36 original and additional well or wells shall not enlarge the right
37 conveyed by the original permit or certificate; and (d) other existing

1 rights shall not be impaired. The department may specify an approved
2 manner of construction and shall require a showing of compliance with
3 the terms of the amendment, as provided in RCW 90.44.080 in the case of
4 an original permit.

5 (3) The construction of a replacement or new additional well or
6 wells at the location of the original well or wells shall be allowed
7 without application to the department for an amendment. However, the
8 following apply to such a replacement or new additional well: (a) The
9 well shall tap the same body of public groundwater as the original well
10 or wells; (b) if a replacement well is constructed, the use of the
11 original well or wells shall be discontinued and the original well or
12 wells shall be properly decommissioned as required under chapter 18.104
13 RCW; (c) if a new additional well is constructed, the original well or
14 wells may continue to be used, but the combined total withdrawal from
15 the original and additional well or wells shall not enlarge the right
16 conveyed by the original water use permit or certificate; (d) the
17 construction and use of the well shall not interfere with or impair
18 water rights with an earlier date of priority than the water right or
19 rights for the original well or wells; (e) the replacement or
20 additional well shall be located no closer than the original well to a
21 well it might interfere with; (f) the department may specify an
22 approved manner of construction of the well; and (g) the department
23 shall require a showing of compliance with the conditions of this
24 subsection (3).

25 (4) As used in this section, the "location of the original well or
26 wells" of a water right permit or certificate is the area described as
27 the point of withdrawal in the original public notice published for the
28 application for the water right for the well. The location of the
29 original well or wells of a water right claim filed under chapter 90.14
30 RCW is the area located within a one-quarter mile radius of the current
31 well or wells.

32 (5) The development and use of a small irrigation impoundment, as
33 defined in RCW 90.03.370(8), does not constitute a change or amendment
34 for the purposes of this section. The exemption expressly provided by
35 this subsection shall not be construed as requiring an amendment of any
36 existing water right to enable the holder of the right to store water
37 governed by the right.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.44 RCW
2 to read as follows:

3 Applications to appropriate groundwater under a cost-reimbursement
4 agreement must be processed in accordance with RCW 90.03.265 when an
5 applicant requests the assignment of a cost-reimbursement consultant as
6 provided in RCW 43.21A.690.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 90.44 RCW
8 to read as follows:

9 (1) The department may expedite processing of applications within
10 the same source of water on its own volition when there is interest
11 from a sufficient number of applicants or upon receipt of written
12 requests from at least ten percent of the applicants within the same
13 source of water.

14 (2) If the conditions of subsection (1) of this section have been
15 met and the department determines that the public interest is best
16 served by expediting applications within a water source, the department
17 must notify in writing all persons who have pending applications on
18 file for a new appropriation, change, transfer, or amendment of a water
19 right from that water source. A water source may include surface water
20 only, groundwater only, or surface and groundwater together if the
21 department determines that they are hydraulically connected. The
22 notice must be posted on the department's web site and published in a
23 newspaper of general circulation in the area where affected properties
24 are located. The notice must also be made individually by way of mail
25 to:

26 (a) Inform those applicants that expedited processing of
27 applications within the described water source is being initiated;

28 (b) Provide to individual applicants the criteria under which the
29 applications will be examined and determined;

30 (c) Provide to individual applicants the estimated cost for having
31 an application processed on an expedited basis;

32 (d) Provide an estimate of how long the expedited process will take
33 before an application is approved or denied; and

34 (e) Provide at least sixty days for the applicants to respond in
35 writing regarding the applicant's decision to participate in expedited
36 processing of their applications.

1 (3) In addition to the application fees provided in RCW 90.03.470,
2 the department must recover the full cost of processing all the
3 applications from applicants who elect to participate within the water
4 source through expedited processing fees. The department must
5 calculate an expedited processing fee based primarily on the
6 proportionate quantity of water requested by each applicant and may
7 adjust the fee if it appears that an application will require a
8 disproportionately greater amount of time and effort to process due to
9 its complexity. Any application fees that were paid by the applicant
10 under RCW 90.03.470 must be credited against the applicant's share of
11 the cost of processing applications under the provisions of this
12 section.

13 (4) The expedited processing fee must be collected by the
14 department prior to the expedited processing of an application.
15 Revenue collected from these fees must be deposited into the water
16 rights processing account created in section 4 of this act. An
17 applicant who has stated in writing that he or she wants his or her
18 application processed using the expedited procedures in this section
19 must transmit the processing fee within sixty days of the written
20 request. Failure to do so will result in the applicant not being
21 included in expedited processing for that water source.

22 (5) If an applicant elects not to participate in expedited
23 processing, the application remains on file with the department, the
24 applicant retains his or her priority date, and the application may be
25 processed through regular processing, expedited processing, coordinated
26 cost-reimbursement processing, cost-reimbursement processing, or
27 through conservancy board processing as authorized under chapter 90.80
28 RCW. Such an application may not be processed through expedited
29 processing within twelve months after the department's issuance of
30 decisions on participating applications at the conclusion of expedited
31 processing unless the applicant agrees to pay the full proportionate
32 share that would otherwise have been paid during such processing. Any
33 proceeds collected from an applicant under this delayed entry into
34 expedited processing shall be used to reimburse the other applicants
35 who participated in the previous expedited processing of applications,
36 provided sufficient proceeds remain to fully cover the department's
37 cost of processing the delayed entry application and the department's

1 estimated administrative costs to reimburse the previously expedited
2 applicants.

3 NEW_SECTION. **Sec. 13.** Section 9 of this act expires June 30,
4 2019.

5 NEW_SECTION. **Sec. 14.** Section 10 of this act takes effect June
6 30, 2019.

7 NEW_SECTION. **Sec. 15.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected."

11 Correct the title.

--- END ---